

Amend Revenue and Taxation Code Section 201.7, related to a nonprofit organization that operates a state park as an agent of the state, to make the term “nonprofit organization” consistent with the Public Resources Code. (Technical)

Source: Property and Special Taxes Department

Existing Law. Existing law authorizes the California Department of Parks and Recreation ([CA State Parks](#)) to enter into an operating agreement with a qualified nonprofit organization to operate portions of the state park system.¹ The law defines a “qualified nonprofit organization” as an organization that is all of the following:

- Exempt from income tax pursuant to Internal Revenue Code Section 501(c)(3);
- Its principal purpose and activity is to provide visitor services in state parks, facilitate public access to park resources, improve park facilities, provide interpretive and educational services, or provide direct protection or stewardship of natural, cultural, or historical lands, or resources; and
- Is in compliance with the Supervision of Trustees and Fundraisers for Charitable Purposes Act.²

For property tax purposes, the law deems a nonprofit organization that enters into such operating agreements to be an agent of the state.³ The “agency” designation ensures that the nonprofit organization’s state park operation does not create a taxable possessory interest.⁴

The Revenue and Taxation Code uses both “nonprofit corporation” and “nonprofit organization” to describe an eligible entity, while the cross-referenced Public Resources Code uses the term “nonprofit organization” to define an eligible entity. A “nonprofit corporation” is a subset of the more broad term “nonprofit organization.” For example, the term “nonprofit organization” also includes foundations, trusts, associations, and limited liability companies. A nonprofit entity need not incorporate for purposes of the property tax welfare exemption.

This Proposal. This proposal changes the term “nonprofit corporation” to “nonprofit organization” for internal consistency. This technical change is consistent with the term “nonprofit organization” used in the law authorizing the operating agreements. This serves to avoid any misconception that this new law, first effective January 1, 2013, only applies to a nonprofit entity organized as a nonprofit corporation.

¹ Public Resources Code Section [5080.42](#) (Added by [Assembly Bill 42](#) (Stats. 2011, Ch. 450)).

² [Article 7](#) (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

³ [Assembly Bill 1589](#) (Stats. 2012, Ch. 533)

⁴ In certain instances, the law requires the assessment of a person’s or entity’s interest in publicly-owned tax exempt real property. These are called “possessory interests.” To be taxable, the interest must be “independent,” which means that the interest is sufficiently autonomous to constitute more than a mere agency. ([RTC 107](#) and [Property Tax Rule 20](#))

Section 201.7 of the Revenue and Taxation Code is amended to read:

201.7. A qualified nonprofit ~~corporation~~ organization that has entered into an agreement with the Department of Parks and Recreation pursuant to subdivision (a) of Section 5080.42 of the Public Resources Code for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system shall be deemed to be an agent of the state for purposes of this division and for no other purpose, and any state-owned property, including possessory interests in that property, used or possessed by the qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system shall be exempt from taxation under subdivision (a) of Section 3 of Article XIII of the California Constitution.